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Letter dated 31 December 2009 from the Chairman of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council

I have the honour to transmit herewith the report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo, containing an account of the Committee's activities from 1 January to 31 December 2009 (see annex). The report, which was adopted by the Committee, is being submitted in accordance with the note by the President of the Security Council of 29 March 1995 (S/1995/234).

I would appreciate it if the present letter and its annex were brought to the attention of the members of the Council and issued as a document of the Council.

(*Signed*) Ertuğrul **Apakan**
Chairman
Security Council Committee established
pursuant to resolution 1533 (2004) concerning
the Democratic Republic of the Congo

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Annex

Report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo

[Original: English]

A. Introduction

1. The present report of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo covers the period from 1 January to 31 December 2009.

2. For 2009, the Bureau of the Committee consisted of Baki İlkin (Turkey) as Chairman, with the delegations of Costa Rica and Viet Nam serving as Vice-Chairmen. In September 2009, Ertuğrul Apakan replaced Ambassador İlkin as Chairman of the Committee.

B. Background

3. By paragraph 20 of its resolution 1493 (2003), the Security Council imposed an arms embargo on all foreign and Congolese armed groups and militias operating in the territory of North and South Kivu and Ituri, and on groups not party to the Global and All-Inclusive Agreement in the Democratic Republic of the Congo. The Council also provided for the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) to report to the Council regularly on the position of the movements and armed groups and on information concerning arms supply and the presence of foreign military, especially by monitoring the use of landing strips in North and South Kivu and Ituri.

4. By its resolution 1533 (2004), the Security Council established the Committee, inter alia, (a) to seek information from States regarding implementation of the arms embargo; (b) to examine and take action on alleged violations; (c) to report to the Council on ways to strengthen the arms embargo; (d) to consider a list of those found to have violated the measures imposed by the Council in paragraph 20 of its resolution 1493 (2003) with a view to submitting recommendations to the Council for possible future measures; and (e) to receive notifications in advance from States made under paragraph 21 of resolution 1493 (2003) and to decide, if need be, upon any action to be taken.

5. By paragraph 10 of its resolution 1533 (2004), the Security Council requested the Secretary-General, in consultation with the Committee, to establish a Group of Experts to undertake a series of tasks related to the monitoring of the arms embargo, as set out in the resolution. The Group of Experts was re-established or extended for eight successive mandates pursuant to resolutions 1552 (2004), 1596 (2005), 1616 (2005), 1654 (2006), 1698 (2006), 1771 (2007), 1799 (2008), 1807 (2008), 1857 (2008) and 1896 (2009).

6. By its resolution 1596 (2005), the Security Council extended the arms embargo to any recipient in the territory of the Democratic Republic of the Congo, with exemptions including the army and police of the Democratic Republic of the

Congo, under conditions set out in the resolution. The Council also imposed travel restrictions and an assets freeze on persons and entities acting in violation of the arms embargo. By the same resolution, the Council decided to extend the mandate of the Group of Experts, with the addition of a fifth finance expert and with a broader mandate in connection with the measures set out in paragraphs 6, 10, 13 and 15 of the resolution.

7. By its resolution 1616 (2005), the Council renewed the arms embargo, travel restrictions and assets freeze until 31 July 2006. By its resolution 1649 (2005), the Council extended the scope of the travel restrictions and assets freeze to political and military leaders of foreign armed groups operating in the Democratic Republic of the Congo or Congolese militias receiving support from abroad that impede the participation of their combatants in disarmament, demobilization and reintegration processes, to take effect on 15 January 2006, unless the Secretary-General informed the Council that the process of disarmament of those foreign armed groups and Congolese militias operating in the Democratic Republic of the Congo was being completed.

8. By its resolution 1698 (2006), the Council renewed until 31 July 2007 the arms embargo as well as travel and financial restrictions on individuals designated by the Committee in accordance with the criteria set out in resolutions 1596 (2005) and 1649 (2005). In its resolution 1698 (2006), the Council extended the travel and financial measures to political and military leaders recruiting or using children in armed conflict, and to individuals committing serious violations of international law involving the targeting of children in situations of armed conflict. In addition to the tasks outlined in resolutions 1533 (2004), 1596 (2005) and 1649 (2005), the Council requested the Group of Experts, whose mandate was extended under resolution 1698 (2006) for a period expiring on 31 July 2007, to recommend feasible and effective measures the Council might impose to prevent the illegal exploitation of natural resources financing armed groups in the eastern part of the Democratic Republic of the Congo. In paragraph 8 of its resolution 1698 (2006), the Council also requested the Secretary-General to present before 15 February 2007, in close consultation with the Group of Experts, a report comprising an assessment of the potential economic, humanitarian and social impact on the population of the Democratic Republic of the Congo of the implementation of the possible measures referred to in paragraph 6 of the resolution.

9. By its resolution 1771 (2007), the Council decided to renew the measures on arms imposed under resolutions 1493 (2003) and 1596 (2005) for a period expiring on 15 February 2008. In connection with the arms embargo, the Council decided to renew the exemptions for units of the army and police of the Democratic Republic of the Congo, provided that conditions specified in paragraph 2 (a), (b) and (c) of the resolution were met. In addition, in paragraph 3 of its resolution 1771 (2007), the Council decided to authorize an exemption for technical training and assistance agreed to by the Government of the Democratic Republic of the Congo and intended solely for support of units of the Democratic Republic of the Congo army and police that were in the process of integration in the provinces of North and South Kivu and the Ituri district.

10. By paragraph 4 of its resolution 1771 (2007), the Council decided that the conditions specified in paragraph 4 of resolution 1596 (2005), as now applied to the Government of the Democratic Republic of the Congo, should apply to supplies of

arms and related materiel as well as technical training and assistance which are consistent with the exemptions described in paragraph 9 of the resolution, and noted in this regard that States had an obligation to notify the Committee in advance of such supplies. The Council also decided to renew the measures on transport and travel and finance in accordance with resolutions 1596 (2005), 1649 (2005) and 1698 (2006), and to review, no later than 15 February 2008, the measures concerning the arms embargo, transport, travel and financial bans, in the light of the consolidation of the security situation and the processes of integration of armed forces and reform of the national police in the Democratic Republic of the Congo.

11. By paragraph 1 of its resolution 1799 (2008), the Council decided to extend until 31 March 2008 the measures on arms imposed by paragraph 20 of resolution 1493 (2003) as amended and expanded by paragraph 1 of resolution 1596 (2005). By paragraph 4 of the same resolution, the Council decided to extend the mandate of the Group of Experts referred to in paragraph 9 of resolution 1771 (2007).

12. By paragraph 1 of its resolution 1807 (2008), the Council decided that the measures on arms and technical training no longer apply to the Government of the Democratic Republic of the Congo, and that for a period ending on 31 December 2008, all States shall take the necessary measures to prevent the direct or indirect supply, sale or transfer, from their territories or by their nationals, or using their flag vessels or aircraft, of arms and any related materiel, and the provision of any assistance, advice or training related to military activities, including financing and financial assistance, to all non-governmental entities and individuals operating in the territory of the Democratic Republic of the Congo. By paragraph 5, the Council reiterated the obligation of supplier States to notify the Committee of all shipments of arms and related materiel, as well as the provision of technical training and assistance to the Democratic Republic of the Congo. By paragraph 13 (e), the Council extended the travel and financial measures to individuals operating in the Democratic Republic of the Congo and committing serious violations of international law involving the targeting of children or women in situations of armed conflict, including killing and maiming, sexual violence, abduction and forced displacement.

13. By its resolution 1857 (2008), the Council decided to extend the sanctions regime and the mandate of the Group of Experts as set out in resolution 1807 (2008) for a further period expiring on 30 November 2009, and requested the Group of Experts to report to the Council in writing, through the Committee, by 15 May 2009 and 15 October 2009. By paragraph 4 of the same resolution, the Council decided that the assets freeze and travel ban would also apply to individuals obstructing the access to or distribution of humanitarian assistance in the eastern part of the Democratic Republic of the Congo, as well as individuals or entities supporting the illegal armed groups in the eastern Democratic Republic of the Congo through the illicit trade of natural resources.

14. By subparagraphs 6 (a) and (b) of resolution 1857 (2008), the mandate of the Committee was expanded to include promulgating guidelines for the conduct of its work; and reviewing regularly the list of individuals and entities subject to the travel ban and assets freeze, adopted by the Committee on 1 November 2005, with a view to keeping the list as updated and accurate as possible; confirming that listing remains appropriate; and encouraging Member States to provide any additional information whenever such information becomes available.

15. By its resolution 1896 (2009), the Security Council decided to extend, for a further period expiring on 30 November 2010, the sanctions regime and the mandate of the Group of Experts, and requested the Group of Experts to fulfil its mandate as set out in paragraph 18 of resolution 1807 (2008) and expanded by paragraphs 9 and 10 of resolution 1857 (2008), and to report to the Council in writing, through the Committee, by 21 May 2010 and again before 20 October 2010.

16. By paragraph 4 (c) of resolution 1896 (2009), the Council decided to expand the Committee's mandate "to specify the necessary information that Member States should provide in order to fulfil the notification requirement set out in paragraph 5 of resolution 1807 (2008) and to circulate this among Member States". By paragraph 4 (a) of the resolution, the Council also decided that the Committee should promulgate guidelines taking into account paragraphs 17 to 24 of resolution 1857 (2008), within six months from the date of adoption of the resolution, in order to facilitate the implementation of the measures imposed by the resolution.

17. The Council also expanded the mandate of the Group of Experts to include the task of producing, taking into account paragraph 4 (g) of resolution 1857 (2008), drawing inter alia on their reports and taking advantage of work done in other forums, recommendations to the Committee for guidelines for the exercise of due diligence by the importers, processing industries and consumers of mineral products regarding the purchase, sourcing (including steps to be taken to ascertain the origin of mineral products), acquisition and processing of mineral products from the Democratic Republic of the Congo. The Group's mandate was further expanded by the Council's request to focus its activities also on the Orientale Province as well as on regional and international networks providing support to armed groups operating in the eastern part of the Democratic Republic of the Congo.

18. By paragraph 14 of resolution 1896 (2009), the Council called upon Member States to take measures to ensure that importers, processing industries and consumers of Congolese mineral products under their jurisdiction exercise due diligence on their suppliers and on the origin of the minerals they purchase.

19. By paragraph 16 of resolution 1896 (2009), the Council recommended that importers and processing industries adopt policies and practices, as well as codes of conduct, to prevent indirect support to armed groups in the Democratic Republic of the Congo through the exploitation and trafficking of natural resources.

20. By paragraph 17 of resolution 1896 (2009), the Council recommended that Member States, particularly those in the Great Lakes region, regularly publish full import and export statistics for gold, cassiterite, coltan and wolframite.

C. Summary of the activities of the Committee

21. In the course of 2009, the Committee held a total of six informal consultations (30 January, 11 March, 13 May, 18 November, 20 November and 4 December).

22. At the informal consultations of the Committee on 13 May 2009, the Coordinator of the Group of Experts re-established pursuant to paragraph 8 of resolution 1857 (2008) presented the Group's interim report to the Committee (S/2009/253), and the Committee held an exchange of views on the recommendations contained in the report, including possible actions to be taken by the Committee. As a result of the discussion, the Committee subsequently agreed to dispatch letters to

the Special Representative of the Secretary-General for Children and Armed Conflict and the Permanent Representative of the Democratic Republic of the Congo to the United Nations. On 28 May 2009, the Chairman briefed the Security Council during informal consultations on the Committee's discussions and the report and its recommendations.

23. In connection with outstanding requests for information by the Group of Experts, the Committee, in April and August 2009, addressed letters to the representatives of Burundi, Ethiopia, Kenya and the United Republic of Tanzania.

24. During its informal consultations held on 18 and 20 November 2009, the Committee considered the final report of the Group of Experts, which was transmitted to the Security Council on 23 November 2009. On 25 November 2009, the Chairman briefed the Security Council on the Group's final report and held a review of the measures contained in resolution 1857 (2008), pursuant to paragraph 26 of the same resolution. At its informal consultations of 4 December 2009, the Committee continued its discussion of the recommendations contained in the final report of the Group of Experts, as well as possible follow-up actions. On the basis of those discussions, the Committee agreed to address a note verbale to all Member States drawing attention to relevant sections of the report. The Committee also agreed to address letters to a number of Member States as part of its follow-up of the Group's observations and recommendations.

25. During the reporting period, the Committee received reports concerning the implementation of measures imposed by paragraph 7 of resolution 1857 (2008) from the following Member States: Andorra, Argentina, Australia, Austria, Belgium, China, Cyprus, France, Liechtenstein, Lithuania, Oman, Serbia, Sweden, Switzerland and the United Kingdom of Great Britain and Northern Ireland.

26. During the reporting period, the Committee received 10 notifications pursuant to paragraph 5 of resolution 1807 (2008). Pursuant to paragraph 15 (d) of resolution 1807 (2008), the Committee transmitted the notifications received during the reporting period to MONUC and the Government of the Democratic Republic of the Congo. The Committee also transmitted letters to Member States acknowledging their notifications and conveying appreciation for their continued efforts towards the full implementation of the sanctions regime and for providing the Committee with information relevant to its mandate.

27. The Committee received, but did not grant, one de-listing request in 2009.